

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MAURICE E. SCOTT, )  
                        )  
                        Plaintiff,      )  
v.                     )                         C.A. No. 08-298 Erie (Lead Case)  
                        )  
JUDGE GORDON R. MILLER,      )  
et al.,                 )  
                        Defendants.     )

**MEMORANDUM ORDER**

Plaintiff's civil rights complaint was received by the Clerk of Court on October 28 2008 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's report and recommendation, filed on November 30, 2009 [50], recommends that: (1) Defendant Randall Schirra's Motion to Dismiss [21] be granted; (2) Defendant Ross C. Prather's Motion to Dismiss [27] be granted; (3) the motion to dismiss [31] filed by Defendants President Judge Gordon R. Miller and Judge John F. Spataro (the "Judicial Defendants") be granted; and (4) the claim against Defendant Robert E. Draudt be dismissed as untimely pursuant to the authority granted to courts under the Prison Litigation Reform Act, 28 U.S.C.A. § 1915A and § 1915(e)(2). The parties were allowed ten (10) days from the date of service in which to file objections. On December 9, 2009, Plaintiff filed partial objections [52], challenging only that aspect of the Magistrate Judge's Report and Recommendation that concerns the claims against the Judicial Defendants.

After de novo review of the Complaint and the documents in the case, together with the Report and Recommendation and Plaintiff's objections thereto, the following order is entered:

AND NOW, this 15th Day of December, 2009, IT IS ORDERED that Defendant Randall Schirra's Motion to Dismiss [21] be, and hereby is, GRANTED.

IT IS FURTHER ORDERED that Defendant Ross C. Prather's Motion to Dismiss [27] be, and hereby is, GRANTED.

IT IS FURTHER ORDERED that the motion to dismiss [31] filed by the Judicial Defendants be, and hereby is, GRANTED.

IT IS FURTHER ORDERED that the claim against Defendant Robert E. Draudt be, and hereby is, DISMISSED as untimely pursuant to the authority granted to courts under the Prison Litigation Reform Act, 28 U.S.C.A. § 1915A and § 1915(e)(2).

The report and recommendation of Magistrate Judge Baxter dated November 30, 2009 [50] is adopted as the opinion of this Court.

s/ Sean J. McLaughlin

SEAN J. McLAUGHLIN  
United States District Judge

cm: all parties of record.  
U.S. Magistrate Judge Susan Paradise Baxter